

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

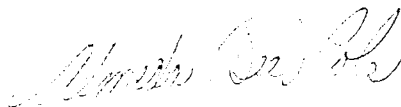
Notice FC-119

1951-S

For: State and County Offices

Income Tax Liability Resulting From Debt Write-Down

Approved by: Acting Deputy Administrator, Farm Loan Programs



1 Overview

**A
Background**

As a result of the Civil Rights Action Team report, it was determined that, in applicable cases, a borrower's anticipated tax liability was not being factored in the cash flow when a loan is written down. Tax liability may be considered in the cash flow to determine whether the borrower will have a feasible plan.

**B
Purpose**

This notice provides guidance on how to consider a borrower's submission of estimated tax liability in the calculation of debt write-down.

**C
Contact**

State Offices shall contact LSPMD through the Area Office.

Disposal Date

December 1, 1997

Distribution

State Offices; State Offices relay to County
Offices

5-28-97

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2 Tax Estimate for Debt Write-Down

A

Tax Liability for Debt Restructure

FmHA Instruction 1951-S, Exhibit F states that debt write-down may result in added Federal income tax liability to the borrower. IRS treats forgiven debt as taxable income under certain conditions. Therefore, a borrower offered write-down on Exhibit F may submit an estimate of Federal income tax attributable to debt write-down, so that the farm loan official can more accurately determine the feasibility of the borrower's farm plan.

Note: FSA personnel shall not give tax advice to borrowers. Since most personnel have limited knowledge of tax laws, borrowers should be referred to their professional tax consultants.

B

Tax Estimate Supporting Documentation

Documentation shall be provided to support the tax estimate for the debt write-down. The farm loan official shall accept the estimate only if the following conditions are met.

- The estimate does not exceed the principal debt written down by:
 - 33 percent for individuals
 - 34 percent for corporations.

Note: These percentages represent the maximum tax rates by law.

- The estimate does not include tax on interest debt written down.
- The estimate is signed by a professional tax consultant.
- Consideration of the tax estimate does not delay FSA's 60 calendar day required response time to the borrower.

If the estimate is received within the Agency's 60 calendar day required period, the farm loan official:

- will change the borrower's farm plan accordingly
- rerun DALRS to determine whether additional write-down is necessary or whether buyout should be offered instead.

If the estimate is not accepted by FSA, the borrower still may accept FSA's offer of write-down with the 90 calendar days as specified in Exhibit F.

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3 Action

**A
State Office
Action**

SED's shall:

- participate in a teleconference with representatives from LSPMD to discuss this notice

Note: The date of teleconference is June 11, 1997.

- schedule a meeting with the DD's to discuss and ensure that they fully understand this notice
 - instruct DD's to meet with CED's and Ag Credit Managers to emphasize the importance of this notice.
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**B
County Office
Action**

CED's and Ag Credit Managers shall ensure that each employee fully understands the procedure for considering tax liability when calculating debt restructure.
